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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,968	03/22/2000	Jacques Jolly	Q58469	8709

23373 7590 08/12/2003

SUGHRUE MION, PLLC
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WASHINGTON, DC 20037

EXAMINER

HOFFMANN, JOHN M

ART UNIT PAPER NUMBER

1731

DATE MAILED: 08/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/532,968

Applicant(s)

JOLLY ET AL.

Examiner

John Hoffmann

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed:
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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30807

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

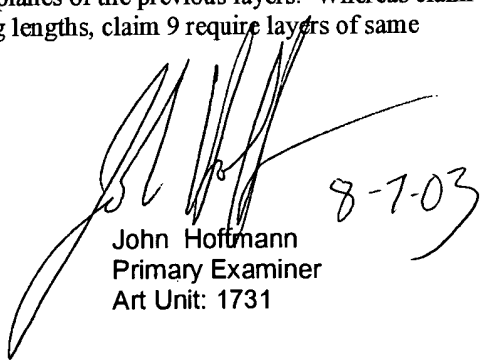
This application is in condition for allowance except for the presence of claims 9-17, drawn to an invention non-elected with traverse by original presentation. Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue. The prosecution of this case is closed except for consideration of the above matter.

Applicant's traversal of paper # 8 was previously addressed. However, in light of the Decision by the Board, not all of the arguments by examiner are proper. The election based on two mutually exclusive species remain. In the traversal, it was argued that claim 9 is not mutually exclusive of claim 1. Beyond what is noted below, examiner could find no explanation or evidence to support this conclusion.

The traversal continues with a comment regarding the existence of segment 10'. Examiner does not understand the relevance of this. Such segments are known in the prior art (see figure 2 of US Patent 5211732 already of record). The present claims are directed to two mutually exclusive methods of making that segment.

It is still further argued that the planes are not physical structure. If the layers extend from plane to plane, then it stands to reason that they will form a planar surface where they meet the plane. But assuming there is no plane, the claims are mutually exclusive for substantially the same reason: claim 9 requires the layers extend from plane to plane, whereas claim 1 requires that the succession of concentric layers "are progressively shortened as a result of a progressive reduction in the lengths of the displacements". Each layer of claim 1 extends between two locations (planes) which are different from the locations/planes of the previous layers. Whereas claim 9 requires the layers extend between the same planes. Claim 1 requires layers of differing lengths, claim 9 requires layers of same lengths.

The requirement is still deemed proper and is therefore made FINAL.


John Hoffmann
Primary Examiner
Art Unit: 1731

8-7-03